

September 28, 2001

STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

## CALIFORNIA COASTAL COMMISSION

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**TO:** Commissioners and Interested Parties

**FROM:** Deborah Lee, Senior Deputy Director  
Teresa Henry, District Manager, South Coast District  
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**SUBJECT:** Major Amendment Request No. 1-2000 to the City of Hermosa Beach certified Land Use Plan and submittal of Implementation Ordinance; (for public hearing and Commission action at the October 8, 2001 meeting in Coronado).

### **Background and Plan Description**

The City of Hermosa Beach has submitted a Land Use Plan amendment and the Implementation Plan portion of the Local Coastal Program for action by the Commission. The City's Land Use Plan was certified in August 1981. The proposed Land Use Plan amendment will eliminate the development cap for the downtown area that was imposed in conjunction with the City's reduced parking requirements, modify the plans Coastal Development and Design policies and programs and remove the City's Housing policies.

The Implementation Plan, which is part of this submittal applies to the entire coastal zone within the City of Hermosa Beach. The Implementation Plan consists the zoning text, and is included in Title 17 of the Municipal code, including the Coastal Development Permit Ordinance (Chapter 17.37). In addition to its zoning code, the City submitted applicable portions of its water quality ordinance, Downtown Enhancement District parking in-lieu fee ordinance, and other ordinances and policies applicable to public access.

Coastal Act section 30513 requires that an Implementation Plan shall include sufficient zoning ordinances, zoning district maps and other implementing actions as necessary to fully conform with and be adequate to carry out the policies and standards of the certified Land Use Plan. The Hermosa Beach Implementation Plan raises issue with respect to its conformity with and adequacy to carry out the shoreline access, public recreation, and water quality policies of the certified Land Use Plan.

### **SUMMARY OF LUP AMENDMENT REQUEST**

Public hearing and action on request by the City of Hermosa Beach to amend the Certified Land Use Plan: the purpose of the amendment is to eliminate the development cap for the downtown area that was imposed in conjunction with the City's reduced parking requirements, modify the plans Coastal Development and Design policies and programs and remove the City's Housing policies.

## **SUMMARY OF STAFF RECOMMENDATION AND AREAS OF REMAINING CONTROVERSY**

Staff recommends the Commission deny the request to amend the Land Use Plan, as submitted, and certify the requested LUP amendment with suggested modifications necessary to bring the amended LUP into conformity with the public access and development provisions of the Coastal Act.

The City's LCP submittal would continue to allow new commercial development in the Downtown area, including intensification of existing uses, with a reduction in the amount of required off-street parking. Although certain development would no longer be exempted from providing additional parking when development increases, the City would eliminate the current cap on total Downtown development. The staff agrees with the elimination of the exception, but recommends that the Commission maintain a cap on the total amount of new Downtown development allowed with reduced parking in order to protect public access to the coast. The City objects to the staff's recommended changes to the LCP dealing with temporary events. The City's proposed ordinance does not distinguish between small, local events that have no impact and larger events that could have a significant impact on beach access and parking. The suggested modifications would ensure that events are adequately reviewed to protect public beach access and parking. Finally, the City objects to modifications to their Water Quality ordinance. The City has adopted strong water quality measures and feels that their Citywide water quality ordinance, is sufficient to ensure the protection of water quality. The suggested modifications will supplement and strengthen the City's ordinance as it pertains to development in the Coastal Zone.

## **SUBMITTAL OF LUP AMENDMENT**

The Commission conditionally certified the Land Use Plan on August 19, 1981. The City of Hermosa Beach Land Use Plan (LUP) was effectively certified on April 21, 1982. The City does not have a certified Implementation Program.

The Commission has certified five amendments to the LUP between 1984 and 1994. In October 1984, the Commission certified LUPA 1-84 which changed the height limit on a parcel of land (Biltmore site) from 45 feet to 54 feet. In February 1986, the Commission certified LUPA 1-85, which changed land use of .87 acres of a 5 acre elementary school site from open space to high-density residential. In March 1991, the Commission certified LUPA 1-90 which redesignated the property commonly know as the "Biltmore Site" from Hotel use to Residential use and redesignated a second parcel (Parking Lot C) to General Commercial (for public parking purposes), on the east side of The Strand, between 14<sup>th</sup> and 15<sup>th</sup> Street. In May 1993, the Commission certified LUPA 1-93 which redesignated a portion (Biltmore Site) of the Specific Plan Area from a mixed commercial/residential use to Open Space. Finally, In October 1994, the Commission certified LUPA 1-94 which reduced the parking requirement for the downtown Commercial District.

The City forwarded its resolution submitting the LUPA and Implementation Ordinance on August 2, 2000, to California Coastal Commission. On October 11, 2000, the Commission granted a one-year extension to allow analysis of the LUPA and Implementation Ordinance.

### **PUBLIC PARTICIPATION.**

Section 30503 of the Coastal Act requires public input in Local Coastal Program development Section 30503 states:

*During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.*

The City of Hermosa Beach Planning Commission held two public hearings on March 21, 2000 and April 5, 2000. The City Council held a public hearing on May 9, 2000.

### **STANDARD OF REVIEW**

The standard of review for the proposed LUP amendment, pursuant to Sections 30512, 30512.1 and 30512.2 of the Coastal Act, is that the proposed amendment conforms to the policies of Chapter 3 (commencing with Section 30200).

### **ADDITIONAL INFORMATION**

Copies of the City's submittal are available at the South Coast District office located in the ARCO Center Towers, 200 Oceangate, Suite 1000, Long Beach, 90802. For additional information, contact Al J. Padilla in the Long Beach Office at (562) 590-5071.

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LIST OF EXHIBITS

1. Vicinity Map
2. Coastal Zone Boundary Map
3. Zoning Map
4. General Plan Map
5. City Council Resolution

**I. DENIAL OF LUPA AS SUBMITTED**

**Staff Recommendation**

Staff recommends adoption of the following motions and resolutions

**A. DENIAL OF THE AMENDMENT TO THE CERTIFIED LAND USE PLAN AS SUBMITTED**

**MOTION I:**            *I move that the Commission certify the Land Use Plan Amendment 1-2000 as submitted by the City of Hermosa Beach.*

**STAFF RECOMMENDATION OF DENIAL:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the land use plan as submitted and adoption of the following resolution. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

**RESOLUTION TO DENY CERTIFICATION OF THE LAND USE PLAN AS SUBMITTED:**

The Commission hereby denies certification of the amendment to the Land Use Plan 1-2000 submitted for **the City of Hermosa Beach** and adopts the findings set forth below on grounds that the land use plan as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan as submitted.

**II. CERTIFICATION WITH SUGGESTED MODIFICATIONS**

**Staff Recommendation**

Staff recommends adoption of the following motions and resolutions

**MOTION II:**            *I move that the Commission certify the Amendment 1-2000 to the Land Use Plan portion of the City of Hermosa Beach Local Coastal Program if modified as suggested in this staff report.*

**STAFF RECOMMENDATION TO CERTIFY IF MODIFIED:**

Staff recommends a **YES** vote. Passage of this motion will result in certification of the amended land use plan with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of a majority of the appointed Commissioners.

**RESOLUTION TO CERTIFY THE LAND USE PLAN WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the amended Land Use Plan for the City of Hermosa Beach, if modified as suggested and adopts the findings set forth below on grounds that the land use plan with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan if modified.

**III. DENIAL OF IMPLEMENTATION PROGRAM AS SUBMITTED**

**Staff Recommendation**

Staff recommends adoption of the following motions and resolutions

**Motion III: *I move that the Commission reject the Implementation portion of the City of Hermosa Beach Local Coastal Program.***

Staff recommends a **YES** vote which would result in the adoption of the resolution and findings. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

**Resolution to Reject the Implementation Plan**

The Commission hereby rejects the Implementation Plan of the City of Hermosa Beach LCP on the grounds that it does not conform with or is inadequate to carry out the provisions of the Land Use Plan as certified. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the approval of the Implementation Program would have on the environment.

**IV. APPROVAL OF IMPLEMENTATION PLAN WITH SUGGESTED MODIFICATIONS**

**Motion IV: *I move that the Commission certify the Implementation Plan portion of the City of Hermosa Beach Local Coastal Program if***

***it is modified in conformity with the modifications suggested below.***

Staff recommends a **YES** vote for the adoption of the following resolution. The motion requires an affirmative vote of a majority of the Commissioners present to pass the motion.

**RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM IF MODIFIED:**

The Commission hereby approves certification of the Zoning and Implementation portion of the Hermosa Beach LCP based on the findings set forth below on the grounds that the zoning ordinance, zoning map, and other implementing materials conform with and are adequate to carry out the provisions of the Land Use Plan as certified. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the approval of the Zoning and Implementation Program if modified would have on the environment.

**V. SUGGESTED MODIFICATIONS for LUPA**

The Commission hereby suggests the following changes to the City of Hermosa Beach LCP amendment which are necessary to ensure that the amended LUP meets the requirements of, and is in conformity with, the policies of chapter 3 (commencing with Section 30200) of the California Coastal Act. If the City Council of Hermosa Beach adopts and transmits its revisions to the LUP amendment by formal resolution in conformity with the suggested modifications within six months of this Commission action, then the Executive Director shall so notify the Commission along with a finding that the City Council's resolution conforms with the Commission's suggested modifications. If the Commission concurs with the Executive Director's conclusion the LUP amendment will become effective.

In the following suggested modifications, the Commission's suggested additions are indicated by double underline and suggested deletions are indicated by double ~~strike out~~. The City's proposed changes to the LUP policies and programs, as submitted by the City, are provided to the Commission in bold ~~strikeout~~ and bold underline.

Certification of the Land Use Plan amendment is subject to the following Suggested Modifications:

Beginning on page 3, II. Parking and Access Summary, the City shall revise the parking and access programs as follows:

Modification No. 1. Page 3, first Program under C.1.:

C. Policies and Programs

1. Existing Policies and Programs



Program: ~~Current City Building Codes and the Zoning Ordinance in effect as of October 8, 2001 supports the current policy. Two on-site parking spaces are required for each residence that is constructed, with an additional guest space provided per every three units constructed. The~~ replacement of parking spaces, or other means deemed appropriate to reduce parking demand, is mandatory for all ~~new~~ developments in which on-street parking spaces are eliminated or the total number of off-street parking spaces are reduced.

Modification No. 2. Page 4, fourth program under C.1.:

Program: A minimum of 471 free public free parking spaces will continue to be provided to beach visitors on the railroad right of way at the following locations:

- On the Greenbelt, between 8<sup>th</sup> and 11<sup>th</sup> Street, east side of Valley Drive
- Public lots near the Civic Center
- West of Valley Drive adjacent to Valley Park

Modification No. 3. Delete Page 4, fifth Policy under C.1. and Page 5, eighth Program under C.1. and replace it with the language of number 4 below:

Policy: The City shall establish parking requirements in the Downtown Enhancement District (DED) identical to the requirements set forth in other areas of the City's coastal zone. However in recognition of the unique parking needs and constraints in the downtown district, the City may explore the creation of and grant exceptions to the parking requirements such as, but not limited to, in-lieu fee programs, parking plans, the creation of remote parking lots with shuttle connections, reduced parking requirements, or shared parking programs. for new buildings, expansions, and/or intensification of uses within the downtown district if the City can assure that there is parking available within the DED to support beach access and the proposed development. ~~The City may approve exceptions for commercial development up to 96,250 square feet if the findings outlined below are made. After 96,250 square feet of new commercial development has received Coastal Development Permits (CDP), these exceptions cannot be granted unless the Coastal Commission certifies an amendment to the Land Use Plan.~~

Modification No. 4. Page 5, eighth Program under C.1.

Program: ~~New development, including expansions and intensification of use shall provide parking consistent with requirements elsewhere in the City unless the following findings are made. If the following findings are made, the exceptions described in Section 2, may be granted.~~

1. Findings: Before granting the exceptions below, the Community Development Director shall certify the following:

a. Fewer than 96,250 square feet of commercial development, including new buildings, expansions and/or intensification of uses, in the DED has received a CDP since November 1, 1994..

b. There is currently adequate parking to support the development and provide adequate beach parking.

c. The City Council has approved an interim parking study for the DED that shows the occupancy of the parking spaces in the DED is 90% or less during daylight hours on summer weekends.

No more than 24,063 square feet of commercial development in the DED has received CDP's since the last interim parking study was approved by the City Council.

## 2. Exceptions

Modification No. 5. Replace the fifth policy under C.1, Page 4 and eighth program on page 5 under C.1, as shown above in number 3 with the following:

**Policy:** The City shall establish parking requirements in the Downtown Enhancement District (DED) identical to the requirements set forth in other areas of the City's coastal zone. However in recognition of the unique parking needs and constraints in the downtown district, the City may explore the creation of parking requirements such as, but not limited to, in-lieu fee programs, parking plans, the creation of remote parking lots with shuttle connections, reduced parking requirements, or shared parking programs for new buildings, expansions, and/or intensification of uses within the downtown district if the City can assure that there is parking available within the DED to support beach access and the proposed development. The City may approve commercial development up to 32,340 square feet with a 65% reduced parking requirement. After 32,340 square feet of new commercial development has received Coastal Development Permits (CDP), all new development, including new buildings, expansions and/or intensification of uses must provide parking at the rate required in section 17.44.030 of the Zoning Code unless the Coastal Commission certifies an amendment to the Local Coastal Program.

Modification No. 6. Modify the following Program, Page 6, first Program

Program: The City shall not accept a fee in lieu of providing on site parking unless the Community Development Director assures that sufficient parking exists to accommodate the parking demand of new development. The improvement fund to mitigate increased parking demand shall be geared to a threshold limit of increased parking demand. The threshold limit shall be established at 100 parking spaces, **the City shall construct new parking upon reaching that threshold limit or the City**

**shall not ~~approve new development~~ accept any fees in-lieu of parking beyond that threshold limit.**

Under Chapter IV. Coastal development and Design, Section C. Policies and Programs, subsection 2. Future Policies and Programs:

Modification No. 7. Modify the following policy, page 11:

Policy: The ~~former~~ Biltmore Site, **known as Noble Park and North Pier Parking Structure**, is a vital asset of the people of Hermosa Beach. ~~The people concur that the most beneficial public recreational, and environmental use for~~ This coastal site shall be maintained as is public open space and beach public parking.

Modification No. 8. Modify the following policy, page 11:

Program: The certified land use designations for the publicly owned property known as the Biltmore Site are as follows (Amended by vote of the people November 5, 1992):

1. The designation for the property specifically known as the Biltmore Site, **known as Noble Park**, is Restricted Open Space (O-S-2), to ensure its preservation and use as a public park.
2. The designation for that part of the Biltmore Site known as ~~Parking Lot G~~ **the North Pier Parking Structure** is commercial/Public Beach Parking.

Modification No. 9. On page 8, the City shall change the chapter heading, as follows:

#### **IV. Coastal Recreational Access**

Modification No. 10. Page 9, under Coastal Recreational Access, add the following:

Policy: Temporary events shall minimize impacts to public access, recreation and coastal resources. A coastal development permit shall be required for those temporary events which have the potential to directly or indirectly impact coastal access, coastal resources, environmentally sensitive resources, and rare or endangered species.

Modification No. 11. The City shall add the following section:

#### **V. Water Quality**

##### **A. Statement of Philosophy**

Hermosa Beach shall ensure the future health, safety and general welfare of the citizens of the City and the water quality of the receiving waters of the County of Los Angeles and surrounding coastal areas.

B. Goals and Objectives

1. Reduce pollutants in storm water discharges to the maximum extent practicable.
2. Regulate illicit connections and illicit discharges and thereby reduce the level of contamination of storm water and urban runoff into the City's stormwater system.
3. Regulate Non-Storm Water Discharges to the City's stormwater system.

C. Policies

Control storm water runoff and pollution that may cause or contribute to adverse impacts on recreational access to beaches, or to other coastal resources, such as sensitive habitat areas or coastal waters. All development in the coastal zone, public and private, shall be in conformance with the storm water standards of the State of California as cited in section 8.44. of the Municipal Code, the Coastal Act, and the most recent standards of the Regional Water Quality Control Board with regards to storm water runoff (specifically, the Standard Urban Storm Water Mitigation Plan, issued March 8, 2000). New development or major rehabilitation projects will also be required to conform to any amendment to, or re-issuance of these State, Federal and Municipal standards. Pursuant to this:

a) All development shall comply with the provisions contained in section 8.44 of the Municipal Code, and with applicable State and federal water quality standards for discharges into sensitive habitat areas.

b) All development shall be designed to minimize the creation of impervious surfaces, and, to the maximum extent possible, to reduce directly-connected impervious areas on the site. Setback areas should remain permeable (vegetated or crushed gravel) where feasible.

c) Plans for new development and redevelopment projects, shall incorporate Best Management Practices (BMPs) and other applicable Management Measures contained in the California Non-point Source Pollution Control Plan, that will reduce to the maximum extent practicable the amount of pollutants that are generated and/or discharged into the City's storm drain system and surrounding coastal waters. BMP's should be selected based on efficacy at mitigating pollutants of concern associated with respective development types or uses.

d) As part of the implementation of this Land Use Plan Amendment, the City shall develop a Public Participation component that identifies methods to encourage public participation in managing, development and minimizing urban runoff impacts to the coast. This component should include a public education program designed to: raise public awareness about stormwater issues and the potential impacts of water pollution; and involve the public in the development and implementation of the City's Stormwater and Urban Runoff Pollution Control Plan.

e) It is the intent of the City to pursue opportunities to participate in watershed level planning and management efforts directed towards reducing stormwater and urban runoff impacts to water quality and related resources including restoration efforts and regional mitigation, monitoring, and public education programs.

## **VI. SUGGESTED MODIFICATIONS LIP**

The Commission hereby suggests the following changes to the City of Hermosa Beach LCP Implementation Plan which are necessary to bring the Implementation Plan into conformity with and adequate to carry out the provisions of the certified City of Hermosa Beach Land Use Plan. If the local government accepts within six months the suggested modifications by formal resolution of the City Council, the Implementation Plan will become effective upon Commission concurrence with the Executive Director finding that this has been properly done.

In the following suggested modifications, the Commission's suggested additions are indicated by double underline and suggested deletions are indicated by double ~~strike out~~.

Modification No. 1. On page 3, under Section 17.37.020, modify the following definition:

"Development" means on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any materials or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition. or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations.

Modification No. 2. Add the following definition under Section 17.37.020:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Modification No. 3. On page 5, modify the following:

### **17.37.030 Permit Required**

A. Coastal Development Permit Required. Any development in the Coastal Zone shall obtain a Coastal development permit, with the exception of ~~projects identified in Section 30519(b) of the Public Resources Code or a development specially exempted~~ by Section 17.37.040 of this Division.

Modification No. 4. Beginning on Page 5, modify the following:

**17.37.040 Exemptions and ~~Categorical Exclusions~~ Temporary Events**

- A. Exemptions. The provisions of this Chapter shall not apply to the following projects as long as all applicable zoning standards are satisfied and no discretionary zoning approvals are necessary:
1. Additions to existing single-family residences and ancillary structures such as garages, swimming pools, fences, storage sheds and landscaping with the exception of the following:
    - a. Development that involves a risk of adverse environmental effect pursuant to Section 13250, Title 14, of the California Code of Regulations.
    - b. Improvements to any structure in the appealable area when such improvements could result in any of the following:
      - (1) An increase of 10 percent or more of the internal floor area of existing structure(s) on the building site or an additional increase in floor area bringing the aggregate increase to 10 percent or more.
      - (2) The construction of an additional story or loft or increase in building height of more than 10 percent.
      - (3) The construction, placement or establishment of any significant detached structure such as a garage, fence, shoreline protective work, guesthouse, or self contained second unit.
      - (4) Improvements located on a beach, in a wetland, seaward of the mean high tide line, in an ESHA, in an area designated as a viewpoint in the LCP, or within 50 feet of the edge of a coastal bluff.
    - c. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within 50 feet of the edge of a coastal bluff or stream, or in areas of natural vegetation designated by resolution of the ~~Coastal Commission~~ City Council as a significant natural habitat.
  2. The maintenance, alteration or addition to existing structures, other than a single-family residence or public works facilities, provided the project does not involve:
    - a. An adverse effects as specified in Section 13253, Title 14, of the California Code of Regulations.
    - b. Any improvement to a structure that changes the intensity of use or use of the structure.

- c. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within 100 feet of the edge of a coastal bluff or stream, or in areas of natural vegetation designated by resolution of the ~~Coastal Commission~~ City Council as a significant natural habitat.
  - d. Improvements located on a beach, in a wetland, seaward of the mean high tide line, in an ESHA, in an area designated as highly scenic in the LCP, or within 50 feet of the edge of a coastal bluff.
4. The installation, testing, placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to the California Coastal Act; provided that the Director may require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources. All repair, maintenance and utility hook-ups shall be consistent with the provisions adopted by the California Coastal Commission. See Appendix A for list of repair, maintenance and utility hook-up exemptions.
- ~~7. Any category of development determined by the Coastal Commission to have no potential for any significant impact on the environment, coastal resources or public access to the coast.~~

Modification No. 5. Beginning on page 7, modify the following:

~~8.~~B. Temporary/Special Event.

- A. For purposes of this Section, a “special event” shall mean any organized event, activity, celebration or function involving the use of City property, rights-of-way, parkland or the beach at which twenty-five (25) or more persons are to be assembled. The activities described in Sections 12.28.060 through 12.28.090 and 12.28.110 are “special events” within the meaning of this Section regardless of anticipated or actual attendance.
- B. No person shall organize or conduct a special event without first obtaining a permit to do so as prescribed by this Section.
- C. Application for a special event permit shall be made on forms provided for that purpose by the Community Resources Department, and shall contain the following information:
  - 1. Name, address, telephone number and other identification information about the person or organization responsible for organizing the event, including its commercial/nonprofit status.
  - 2. The proposed dates and hours of operation of the event, including the period required for set-up and break-down/clean-up.
  - 3. The estimated daily and total attendance at the event (including organizers, participants, spectators, volunteers and others), with an explanation as to the factual basis for the estimate.

4. A description of all organized activities proposed to take place during the event, and whether admission is to be charged.
5. A description or diagram showing the proposed location of the event, including all temporary facilities/structures/signage/equipment to be erected, ingress and egress, number and type of vehicles and whether existing structures/facilities are to be relocated or modified.
6. A parking plan showing the number of public parking spaces to be occupied by the event organizers, the location of satellite parking lots to be used for attendee parking, arrangements for shuttle bus transportation, and plans for publicizing the availability of off-site public parking.
7. Such other information determined by the Director of Community Resources to be necessary to evaluate the proposed event.
8. A permit fee in an amount determined by resolution of the City Council.
9. A dated signature of the organizer or its authorized agent attesting to the truth, completeness and accuracy of the contents of the application.

D. The Community Resources Director may issue a special events permit upon finding that:

1. The special event, if it falls within Sections 12.28.060 through 12.28.090 and 12.28.110, is included in the annual special event calendar approved by the City Council.
2. The applicant reimburses the City for all costs incurred by the City in connection with the event, including public safety, traffic control and monitoring.
3. The number of estimated attendees can be accommodated at the proposed location and surrounding area.
4. The applicant is capable and qualified to manage the event in a competent, professional manner in accordance with all conditions of approval.
5. Adequate provision has been made for satellite parking, shuttle transportation and traffic control.
6. Adequate provision has been made for security, crowd control, ingress and egress, and clean-up.
7. The total number of days required for the event shall not exceed fourteen (14) days.
8. The applicant provides required insurance, deposits, bonding and indemnification of the City.

E. The Community Resources Director may impose such conditions and operational rules and regulations on the special event permit as are necessary to minimize its impact on the community and to assure that it will not be a detriment to public health and safety. Such conditions include, but are not limited to:



1. Monetary deposits, bonds and other security as may be necessary to guarantee performance of all required conditions, clean-up and repair of any City property or facilities damaged as a result of the event.
  2. Procurement of liability and other insurance policies to protect the applicant and attendees, naming the City and its officers and employees as additional insurers.
  3. Limitations on the hours of operation and volume of public address systems and/or amplified music.
- F. The Community development director shall conduct hearings and provide notice on applications for a special event as a coastal development permit if the following circumstances apply:
1. It is held between Memorial Day weekend and Labor Day; and
  2. It occupies more than 5,000 square feet a sandy beach area and reserves more than 35 spaces in a beach parking lot or downtown for exclusive use of the event sponsors or special guests; and
  3. Fees are charged for admission to more than 25% of the seats or spaces.
  4. Notwithstanding the requirements above, if, in the opinion of the ~~Community Development Director~~, City Council or the Community Resources Director, the location, nature, configuration or length of the event, may result in impacts to coastal recreational opportunities and resources, access and impacts to the environment a coastal development permit shall be required for the event.
- G. If a coastal development permit is heard for the event, the community resources director shall issue notices and hold hearings consistent with notice and hearing requirements indicated in section 17.37.080 of this ordinance. The hearings and decision on the special event permit and of the coastal development permit for such an event shall be combined. Coastal Development Permits for temporary events shall be subject to, and processed in conformance with, all applicable procedures set forth in Chapter 17.37
- H. Any person may appeal a decision of the Community Resources Director as regards a special event permit application and or a coastal development permit for a special event by filing an appeal in writing to the City Clerk within ten (10) days of the decision. The appeal shall set forth the grounds upon which the appellant believes the decision is in error or inconsistent with the LCP. The City Council shall consider and take action on the appeal at its next regular meeting following receipt of the appeal, provided that it may continue its deliberations to a date certain with the

consent of the applicant. The decision of the City Council shall be final unless the event is located in the geographic area in which coastal development permits may be appealed and the event has received a coastal development permit, in which case the procedures for the issuance of appealable coastal development permits found in chapter 17 shall apply.

**Section 17.37.044 Findings - Temporary Events.**

All decisions on Coastal Development Permits for temporary events shall be accompanied by written findings. A Coastal Development Permit for a temporary event shall be approved either as applied for, or as modified, only if all of the following findings can be specifically supported:

- A. The staging of this temporary event will not result in more than two (2) temporary event occurring on the beach during the calendar year that proposes to charge admission fees for more than 25 percent of the provided seating capacity.
- B. The temporary event, as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified Hermosa Beach Local Coastal Program.
- C. The temporary event, as described in the application and accompanying materials, as modified by any conditions of approval, is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 commencing with Section 30200 of the Public Resources Code, specifically:
  - 1. The event does not physically block or prohibit access to the shoreline, Pier, or The Strand by the general public or impose conditions on the public for access to the shoreline, Pier or The Strand. A specific requirement for a minimum fifteen (15) foot wide accessway to the Pier is included in the Coastal Development Permit as a condition of approval.
  - 2. The event includes a parking plan which minimizes exclusive use of public parking spaces in the area located between the beach and Hermosa Avenue, by allowing the exclusive use of public parking spaces only for those vehicles deemed essential to the operation of the event. A specific description of the parking plan is included in the Coastal Development Permit as a condition of approval.
- 5. If the event requires the use of more than twenty (25) public parking spaces in the area located between the beach and Hermosa Avenue, the parking spaces are replaced at a minimum one-to-one ratio in parking lots open for use by the general public, and adequate free transportation is provided between the replacement parking spaces and Hermosa Avenue to assure that they effectively serve public beach access. A specific description of the replacement parking program is included in the Coastal Development Permit as a condition of approval.

4. If the expected attendance at the event exceeds 1,500 persons on any day, measures to effectively serve beach access are provided, including, but not limited to the provision of alternate parking and a beach shuttle service, and an interim traffic control plan, including notification to the public. Such measures shall be adequately publicized by ticket sales, incentives, signs, radio and other measures required by the Department of Parks and Recreation or the Community Development Director. A specific description of the measures to be used are included in the Coastal Development Permit as conditions of approval.
  5. The cumulative effects of the event, in conjunction with other past, concurrent, or future planned temporary events, will not result in unmitigated impacts on coastal access during the peak beach use period commencing May 1 and ending September 30.
- D. The event will not be significantly detrimental to the public health, safety or welfare of persons residing or working in the vicinity of the proposed event; the event will not be significantly detrimental to properties or improvements in the vicinity of the event; and the proposed event will not be significantly detrimental to the general welfare of the City.
- E. All feasible mitigation measures and conditions to the Coastal Development Permit have been adopted to offset any adverse impacts of the proposed event.

Modification No. 6. On page 8, delete the following:

~~**B. Categorical Exclusions.** The provisions of this Chapter shall not apply to the following projects:~~

- ~~1. All projects consistent with the zoning ordinance that do not require discretionary review and are not located in the appealable area or are subject to appeal as stated in Section 17.37.130.~~
- ~~2. (RESERVED) Specific list of categorical exclusions to be submitted separately.~~
- ~~3. The City shall maintain a record of all permits issued for categorically excluded developments for public review. Each permit shall contain the name of applicant, location of project and a brief description of the project.~~
- ~~4. Notice for projects that are categorically excluded shall be provided to the Coastal Commission within five (5) working days.~~

Modification No. 7. On page 8, modify the following:

#### **17.37.050 Coastal Development Permit Applications**

**A. Application.** Applications for a Coastal Development Permit shall be approved prior to issuance of building permits. A Coastal Development Permit application shall be made to the Community Development Department on forms provided by the same Department. ~~The required contents of the Coastal Development Permit shall be as set forth by the Community Development Department and shall be accompanied by the filing fee as established by resolution of the City Council.~~ The applicant shall state in the application how:

1. The proposed development conforms to the certified Local Coastal Program.
2. The proposed development, located between the nearest public road and the sea, is in conformity with the public access and public recreation policies of Chapter 3, Division 20 of the Public Resources Code.

**B. Application Requirements.**

Each coastal development permit application shall be accompanied by:

1. Filing fee, as established by resolution of the City Council;
2. Evidence that the applicant meets the following criteria:
  - a. Is the owner of the property involved; or
  - b. Has written permission of the owner or owners of the property to make such application; or
  - c. In the case of a public agency, is negotiating to acquire a portion of the property involved.
3. Description of the nature of the requested use, indicating the business, occupation or purpose for which such building, structure or improvement is to be erected, constructed, altered, enlarged, moved, occupied or used.
4. A location map showing the area to be developed in relation to nearby lots, streets, highways, and major natural features, such as the ocean, beaches, and other major landforms.
5. A site plan, drawn to scale, showing:
  - a. Existing and proposed property lines of the site to be developed, including all easements over or adjacent to the lot;
  - b. Existing and proposed topography;
  - c. All existing and proposed structures, roads, utility lines, signs, fence, accessways and other improvements;
  - d. Major natural and man-made landscape features, including location, type and size of any trees or other vegetation to be removed or planted.

6. Any additional information determined, within thirty (30) days of the coastal development permit application submittal, to be necessary for evaluation of the proposed development.
7. Description of any feasible alternatives or any feasible mitigation measures available which would substantially lessen any significant adverse impact the development may have on the environment.
8. For development proposed on beachfront property, the application shall include documentation that is sufficient to determine the maximum extent of storm wave uprush on the project site based on current and predicted sea level rise and beach erosion over the life of the structures.
9. Address labels for all known interested parties, and all property owners, residents, tenants, leasees, and businesses within a 100 foot radius of the parcel on which development is proposed.
10. Evidence that the applicant has posted a notice in a conspicuous location at the site of the proposed development that clearly states the applicant's intent to apply for a Coastal Development Permit. The posted notice shall contain a brief description of the proposed development.

**~~B.C.~~ Refusal of Acceptance of Application for Lack of information.** The Director may reject, without a public hearing, an application for a Coastal Development Permit if such application does not contain the required information.

**~~C.D.~~ Concurrent Filing.** A Coastal Development Permit shall be considered concurrently with any other discretionary permits or approvals required for the project by the City.

Modification No. 8. On page 9, modify as follows:

#### **17.37.060 Determination of Jurisdiction**

A. Determination. Prior to or at the time of an application for a Coastal Development Permit, the Director shall determine if the proposed project is located within an area that is:

1. An area where the California Coastal Commission continues to exercise Original Permit Jurisdiction, as defined in Section 30519 of the California Coastal Act, and the applicant must obtain a Coastal Development Permit directly from the Coastal Commission.
2. Appealable to the Coastal Commission and requires a Coastal Development Permit.
3. Non-appealable to the Coastal Commission and requires a Coastal Development Permit.

4. ~~Categorically excluded or~~ Exempt and does not require a Coastal Development Permit.

Modification No. 9. On page 9, modify the following:

#### **17.37.070 Resolving Jurisdictional Determination Disputes**

**A. Dispute Procedure.** Where a question as to the appropriate jurisdiction has arisen, the following procedures shall establish whether a development is exempt, ~~categorically excluded~~, non-appealable or appealable:

1. The local government shall make its determination as to what type of development is being proposed (i.e. exempt, ~~categorically excluded~~, appealable, non-appealable) and shall inform the applicant of the notice and hearing requirements for that particular development.
2. If the determination of the local government is challenged, or if the local government wishes to have the Commission determine the appropriate designation, the local government or an interested person shall notify the Commission by telephone of the dispute/question and shall request an Executive Director's opinion.
3. The Executive Director shall, within two (2) working days of the ~~local government~~ request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is exempt, ~~categorically excluded~~, non-appealable or appealable.
4. Where, after the Executive Director's investigation, the Executive Director's determination is not in accordance with the local government's determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the ~~area~~ project. The Coastal Commission shall schedule the hearing on the determination for the next Commission meeting (in the appropriate geographic region of the State) following the local government request.

Modification No. 10. On page 10, modify Section 17.37.080, subsection B.5. as follows: **B. Contents of Coastal Development Permit Hearing Notice.** In addition to the noticing required for public hearings in accordance with City Council policy, the notice for a Coastal Development Permit shall contain the following information:

1. A statement that the development is located within the Coastal Zone and is either Appealable or Non-Appealable to the Coastal Commission.
2. A statement of the public comment period.
3. The date of the filing of the application and the name of the applicant.
4. The file number assigned to the application.
5. A description of the development ~~at~~ and its proposed location.
6. The date, time, and place at which the application will be heard.

7. A brief description of the general procedure concerning the conduct of hearing and local actions.
8. The procedure for local and Coastal Commission appeals, including any local fees required.

Modification No. 11. On page 10, modify Section 17.37.100 as follows:

**17.37.100 Coastal Development Permit Approval or Denial Findings**

**A. Findings for Approval.** An application for a Coastal Development Permit shall be approved when the evidence substantiates to the satisfaction of the approving authority. All decisions on Coastal Development Permits shall be accompanied by written findings and shall include the following findings:

1. The proposed development is in conformity with the Certified Local Coastal Program.
2. Any development, located between the ~~nearest first~~ public road paralleling ~~and~~ the sea or shoreline of any body of water located within the Coastal Zone, is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code.
3. The proposed development conforms to the requirements of the California Environmental Quality Act (CEQA).

Modification No. 12. On page 12, Section 17.37.130, subsection C. modify as follows:

**C. Appeals to the Coastal Commission**

1. Exhaustion of Local Appeals. An appellant must exhaust all local appeals under the City's appeal procedure prior to filing an appeal to the Coastal Commission unless one of the grounds listed in California Code of Regulations, Title 14, Section 13573 are present.
2. Non Appealable Jurisdiction: A decision for a development located in the non-appealable jurisdiction is not appealable unless the development:
  - a. Requires amendment to the Zoning Ordinance or General Plan.
  - b. Constitutes a major public works project or a major energy facility.
3. Appellants: A decision for a development located in the appealable jurisdiction or as described in 17.30.130 C2 above may be appealed by:
  - a. The applicant or aggrieved person who exhausted local appeals.
  - b. Any two members of the Coastal Commission.

4. Appeal Time Limit: All appeals must be filed with the Coastal Commission within ten (10) working days of the date the Coastal Commission receives the notice of final local action on the Coastal Development Permit as defined in Section 13571(a), Title 14, of the California Code of Regulations.
5. Grounds for Appeal. The grounds for an appeal of a local decision on a development shall be limited to an allegation that the decision ~~did~~ does not conform to the Certified Local Coastal Program, or the public access policies of the Coastal Act.
6. Effect of Appeal to the Coastal Commission. Upon receipt of a notice from the Executive Director of the Coastal Commission that an appeal has been filed, the City shall refrain from issuing a building permit on the development, and the City's action on the development shall be stayed, pending Coastal Commission action on the appeal.

Modification No. 13. Beginning on Page 12, modify as follows:

#### **17.37.140 Expiration of Unused Permits**

**A. Permit Expiration.** If development authorized by a Coastal Development Permit has not commenced within the specified time, or if no time is specified, within two years of the granting of the permit, the permit becomes null and void with the exception of the following:

1. In the case of a permit for a publicly owned use, the development shall be deemed to have commenced, provided that the public agency accomplished the following:
  - a. Within one year of the approval date, the City either acquires the property involved or commences legal proceedings for its acquisition.
  - b. Immediately after the acquisition of, or the commencement of legal proceedings for the acquisition of the property, posts such property with signs, having an area of not less than 20 square feet nor more than 40 square feet in area indicating the agency and the purpose of which it is to be developed. One such sign shall be placed facing and located within 5 feet of each street, highway or parkway bordering the property. Where the property in question is not bounded by a street, highway or parkway, the agency shall erect one sign facing the street, highway or parkway nearest the property.
2. In the case of a Coastal Development Permit heard concurrently with any other discretionary permit, the Planning Commission and/or City Council shall specify time limits and extensions to be concurrent and consistent with those of the land division, variance or other permit.
3. Extension of Permit. The Planning Commission may extend a permit for a period of not to exceed one year if the development has not commenced during that time, provided an application requesting such extension is filed prior to such expiration



date. In the case of a non-profit corporation organized to provide low-income housing, the Planning Commission may grant an additional one-year extension, provided that an application requesting such extension is filed prior to the expiration of the first such extension.

Modification No. 14. On Page 14, modify the following:

#### **17.37.170 Revocation of Coastal Development Permits**

**A. Grounds for Revocation.** The City may initiate proceedings to revoke a Coastal Development Permit upon the receipt of evidence indicating that:

1. The applicant included inaccurate, erroneous and/or incomplete information, and if accurate and complete information had been provided, the Coastal Development Permit would not have been approved or different conditions of approval would have been imposed; or,
2. There was failure to comply with notice provisions of Section 17.37.080, where the views of the person(s) not notified were not otherwise made known to the City and could have caused the City to require additional or different conditions on a permit or deny an application.
3. The applicant is violating the conditions of approval, has been requested by the City to correct said violation(s), and has failed to correct a violation(s) despite this request by the City.
4. The development is being operated in such a manner as to be a threat to public health and safety or is creating a nuisance.

**B. Initiation of Revocation.** Initiation of proceedings to revoke a permit based on evidence constituting grounds for revocation, as stated in sub-section A above, may be made by the City, on its own motion, or any person who did not have an opportunity to fully participate in the original permit proceedings because of the reasons stated in sub-section A above and who applies to the Director specifying the particular grounds for revocation. ~~The City may initiate proceedings to revoke a permit based on evidence submitted by any person constituting grounds for revocation as stated in sub-section A above.~~ The Director shall review the stated grounds for revocation and, unless the request is patently frivolous and is without merit, or was filed without due diligence, shall initiate revocation proceedings.

Modification No. 15. On page 15, modify the following:

#### **17.37.190 Emergency Coastal Development Permits**

**A. Emergency Permits.** In the event of a verified emergency, an oral or written temporary emergency authorization to proceed with remedial measures may be given by the Director until such time as a full Coastal Development Permit application has

been ~~be~~ filed, as set forth in Sections 13136 through 13143, Title 14, of the California Code of Regulations. If oral authorization to proceed is given by the Director, as soon as feasible, the Director shall also issue a written authorization describing the activity that has been authorized.

**B. Immediate Emergency Action.** In some instances it may be necessary to take immediate action to protect life and public property from imminent danger, or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by natural disaster, serious accident, or other emergency, before applications and procedures for obtaining a permit can be complied with in a timely manner. In such cases the requirements of obtaining a permit may be waived as long as the actions taken do not result in permanent erection of structures valued at more than twenty-five thousand dollars (\$25,000). The Executive Director of the Coastal Commission shall be notified of the type and location of the emergency action taken within three (3) days of the disaster or discovery of the danger, whichever occurs first. Within seven (7) days of taking such action, the Director shall send a written statement to the Coastal Commission of the reasons why the action was taken and verify that the action complied with the expenditure limits set forth in Public Resources Code Section 30611.

**C. Limitations.** The Director shall not grant an Emergency Coastal Development Permit for any development that falls within an area in which the Coastal Commission retains direct permit review authority or for any development that is appealable to the Coastal Commission. In such areas, a request for an emergency authorization must be made to the Coastal Commission.

Modification No.16. On page 16, add the following:

### **17.37.210 Local Coastal Program Amendments**

The City Council may amend all or part of the Local Coastal Program, but the amendment will not take effect until it has been certified by the Coastal Commission. Any General Plan Element or Specific Plan or ordinance of the City that is applicable to the Coastal Zone must be reviewed and amended as necessary to make the General Plan Element or Specific Plan or ordinance consistent with the rest of the Local Coastal Program.

**A. Initiation of Amendments to the Local Coastal Program.** An amendment to the Local Coastal Program may be initiated by one of the following:

1. A resolution of intention initiated by the Planning Commission.
2. A resolution of intention initiated by the City Council directing the Planning Commission to initiate an amendment.
3. An application from a property owner or his/her authorized agent provided that such application involves the development or modification of property located within the area affected by such amendment.

**B. Planning Commission Action on Amendments to the Local Coastal Program.**

1. Upon receipt of a completed amendment application or duly adopted resolution of intention, a public hearing before the Planning Commission must be held and notice of such hearing given consistent with the Coastal Act and California Code of Regulations.
2. The Planning Commission must make a written recommendation on the proposed amendment whether to approve, approve in modified form, or disapprove.
3. Planning Commission action recommending that the proposed Local Coastal Program amendment be approved, or approved in modified form, must be considered for adoption by the City Council. Planning Commission action disapproving a proposed Local Coastal Program amendment may be appealed by any interested person, including a Commissioner or Council member, per Section 17.37.130.

**C. City Council Action on Amendments to the Local Coastal Program.** The recommendation of the Planning Commission to approve or deny a proposed Local Coastal Program Amendment, or the appeal from a decision by the Planning Commission shall be considered by the City Council. A public hearing on the amendment shall be conducted after first giving notice of the hearing pursuant to Section 17.37.080.

**D. Fees.** A fee for an amendment to the Local Coastal Program shall be established by a resolution of the City Council.

**E. Coastal Commission Certification of Amendments to the Local Coastal Program.** Any proposed Amendment to the Local Coastal Program shall not take effect until it has been certified by the Coastal Commission. Any amendment approved by the City shall be submitted to the Coastal Commission in accordance with Sections 30512 and 30513 of the Public Resources Code. An amendment to the certified Local Coastal Plan shall not become effective until the amendment is submitted pursuant to the requirements of Section 13551 of the California Code of Regulations and certified by the California Coastal Commission pursuant to Chapter 6, Article 2 of the California Coastal Act, as follows:

1. A denial by the City Council on an amendment request shall be final and no appeal to the Coastal Commission shall be allowed except as provided by subsection 2 of this section.
2. Pursuant to Section 30515 of the Coastal Act, any person or agency authorized to undertake a public works project or energy facility development, who was denied a request to amend the Local Coastal Program, may file the request for amendment with the Coastal Commission.

Modification No. 17. On page 17, modify as follows:

**17.37.220 Encroachments**

An encroachment is defined as any structure, object, use, or landscaping, owned by a private property owner that is ~~proposed to be~~ located on or over public property.

**A. Encroachment Permits.**

1. All encroachments shall be required to obtain an Encroachment Permit, as specified in Municipal Code Chapter 12.16, as well as any necessary Coastal Development Permits, as detailed in this section.
2. Any application for encroachment in the Coastal Zone shall be evaluated for conformance with the policies of the California Coastal Act and the Certified Land Use Plan.
3. Access in the Coastal Zone along public rights-of-way, such as paved sidewalks and walk streets, shall be protected. No permanent device, structure, use, object or landscaping preventing public access along paved sidewalks shall be permitted.

**B. Outdoor Dining on Lower Pier Avenue.**

1. Applications for outdoor dining on Pier Avenue between Pacific Coast Highway and the Strand shall be subject to Section 12.16, Encroachments, of the Municipal Code.
2. Notwithstanding the provisions of 17.37.220, A. above, applications for outdoor dining on Pier Avenue between Pacific Coast Highway and the Strand shall not require a Coastal Development Permit as long as the cumulative outdoor dining area on Pier Avenue, between Pacific Coast Highway and the Strand, does not exceed 3,300 square feet, and the provisions of Municipal Code section 12.16 are complied with.

Modification No. 18. The City shall amend Chapter 8.44 of their Municipal Code as follows:

**8.44.060 Prohibited Activities**

**A. Illicit Discharges and Connections.**

It is prohibited to commence, establish, use, maintain, or continue any Illicit Connections to the MS4 or any Illicit Discharges to the MS4. This prohibition against Illicit Connections applies to the use, maintenance, or continuation of any Illicit Connection, whether that connection was established prior to or after the effective date of this Chapter. All construction, alteration, or repair activities of any storm water drainage structure, facility, or channel must first obtain a permit therefor from the City's Department of Public Works.

#### **D. Non-Storm Water Discharges.**

The following Non-Storm Water Discharges into the MS4 are prohibited unless in compliance with a separate NPDES permit or pursuant to a discharge exemption by the Regional Board, the Regional Board's Executive Officer, or the State Water Resources Control Board:

3. To the maximum extent practicable, discharges to the MS4 from areas where repair of machinery and equipment, including motor vehicles, ~~which are visibly leaking oil, fluid or antifreeze,~~ is undertaken;

11. The discharge of untreated runoff to the MS4 from new or refurbished parking lots with 25 or more parking spaces.

8.44.075 Site Development Standards for Storm Water and Urban Runoff Prevention and Control

#### **A. Access Roads, Driveways, Turnarounds**

1. All roads, driveways, and turnarounds should avoid where possible locations requiring substantial cut and fill. Limit related land disturbance such as clearing, grading, and cut and fill to reduce erosion and loss of topsoil.
2. On disturbed surfaces adjacent to roads, soil stabilization practices such as permanent seeding, mulching, slope terracing/rounding, top/toe and mid-slope diversion ditches, and/or slope/subsurface drains shall be implemented.
3. For roads, access ways, and turnarounds that would change the overall runoff either qualitatively or quantitatively, the runoff shall, to the maximum extent practicable, be directed to vegetated pervious areas such as vegetated filter strips or grassed swales for treatment. Pond systems, and/or infiltration systems shall otherwise be installed and maintained.

#### **B. Landscaping and Vegetation**

Native vegetation shall be retained, protected, and supplemented to the maximum extent practicable. In no event shall the native vegetative ground cover be destroyed, removed, or disturbed more than fifteen (15) days prior to grading unless otherwise approved by the engineer representing the permit-issuing authority. When vegetation must be removed, the method shall be one that will minimize the erosive effects from the removal. Exposure of soil to erosion by removing vegetation shall be limited to the area required for immediate construction operations. Only areas essential to the proposed construction and development shall be permitted to be cleared of native vegetation.

### **C. Grading**

Plan and design development within the natural constraints of the site to minimize the clearing, grading, cuts and fill required for the development. Grading operations shall be conducted so as to prevent damaging effects of sediment production and dust on the site and on adjoining properties. All land-disturbing activities during the rainy season (October 15 – April 15), regardless of size, shall be avoided to the maximum extent practicable and may be undertaken only in accordance with an erosion control plan approved by the City. Temporary mulching, seeding, or other suitable stabilization measures shall be used to protect exposed critical areas during construction or other land disturbance. Earth dikes, swales, or, where possible, other unpaved facilities or diversion for intercepting surface runoff shall be installed at the top of cut or fill slopes where there is a potential for erosion. Such interceptors shall not divert additional runoff onto adjacent properties or into adjacent drainage basins.

### **D. Sediment Control During Construction**

Sediment shall be retained on the site. Sediment basins, sediment traps, filtering or similar sediment control measures shall be installed before any clearing and grading operations begin.

#### **8.44.080.C. Storage, Maintenance, and Repair of Materials, Machinery, and Equipment.**

Machinery and equipment used for construction, industrial, and/or commercial purposes shall only be maintained and washed in confined areas specifically designed to control runoff. These confined areas shall be more than 50 feet away from the MS4. Other machinery or equipment that is to be repaired or maintained in areas susceptible to or exposed to storm water, shall be placed in a manner so that leaks, spills and other maintenance-related pollutants are not discharged to the MS4. Materials with the potential to contaminate storm water must be: (1) placed in an enclosure that prevents contact with runoff or spillage to the MS4; or (2) protected by secondary containment structures such as berms, dikes, or curbs. The material storage area must be paved and sufficiently impervious to contain leaks and spills. The material storage area must also have a roof or awning to minimize collection of storm water within the secondary containment area.

#### **8.44.095 Standard Urban Storm Water Mitigation Plan (“SUSMP”) Requirements for New Development and Redevelopment Projects.**

### **B. Incorporation of SUSMP Into Project Plans.**

An application for a New Development or a Redevelopment Project identified in paragraph a. of this Section shall incorporate into the applicant’s project plans a Storm Water Mitigation Plan which includes those Best Management Practices necessary to control storm water pollution from construction activities and facility operations, as set forth in the SUSMP applicable to the applicant’s project. Structural or Treatment

Control BMPs set forth in project plans shall meet the design standards set forth in the SUSMP.

In addition, for all other projects not identified in paragraph a. of this Section, structural and non-structural BMPs during and after construction shall be implemented and maintained as needed to treat and control the increased runoff and associated pollutants caused by changed soil and surface conditions. Specifically, for design purposes, with case-by-case considerations, post-construction structural BMPs (or suites of BMPs) shall be designed, where appropriate, to treat, infiltrate or filter storm water runoff from each storm event, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs (i.e., standards set forth in the SUSMP), and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor, for flow-based BMPs.

The design standards are not applicable to single family residence developments and any other small-scale developments limited in land disturbance and runoff impacts provided all of the following are true:

1. No post construction runoff discharges directly into the MS4;
2. The intervening pervious areas between any impervious areas on-site and the MS4 are at least one half the size of the impervious areas generating runoff and at least one half the width of the widest part of the impervious draining surface; and
3. The intervening pervious areas between any impervious areas and the MS4 are of appropriate location, slope and design.

If a project applicant has included or is required to include Structural or Treatment Control BMPs in project plans, the applicant shall provide verification of maintenance provisions. The verification shall include the applicant's signed statement, as part of its project application, accepting responsibility for all structural and treatment control BMP maintenance until such time, if any, the property is transferred.

BMPs incorporating the use of vegetation, shall be maintained with an emphasis on reducing mowing and spraying while increasing the planting of native species.

Structural or treatment control BMPs shall be inspected prior to the start of the rainy season and no later than October 15<sup>th</sup>. Major observations to be made during inspections include:

1. Locations of discharges of sediment or other pollutants from the property;
2. BMPs that are in need of maintenance;
3. BMPs that are not performing, failing to operate, or inadequate; and
4. Locations where additional BMPs are needed.

BMPs shall be maintained according to the specific measures outlined in the appropriate BMP design manuals, as referenced by the SUSMP, with considerations for regional differences in climate and soil.

BMP traps/separators and/or filters shall be cleaned prior to the onset of the storm season and no later than October 15<sup>th</sup> each year. All pollutants contained in BMP devices shall be contained and disposed of in an appropriate and lawful manner.

Non-routine maintenance activities that are expensive but infrequent, such as pond dredging, should be performed on an as-needed basis based on information gathered during regular inspections.

Where feasible, all critical corrective BMP maintenance shall be performed immediately and no later than the onset of the following rain season.

#### **8.44.130 Citywide Urban Runoff Pollution Prevention Education Program.**

The Department of Environmental and Public Works Management, along with other City departments, shall conduct an informational program to educate the public about the dangers of urban runoff pollution and the means of preventing such pollution. The program shall educate residents and business persons who operate within the City about the contents of this Chapter.

Modification No. 19. The City shall add the following section:

#### **17.37.260 Parking In-lieu Fee**

Businesses within the Downtown Enhancement District proposing in-lieu fees to fulfill parking required under Section 17.44.190 of the municipal code shall first provide evidence acceptable to the Director, that there is adequate additional underused capacity within the Downtown Business District to accommodate the number of spaces required.

1. The in-lieu fee shall be the actual construction cost of a space in an above ground parking structure, adjusted for inflation by the percentage change in the Consumer Price Index (CPI), between June 1999, through the month in which payment is made. As of June 1999, the in-lieu fee was \$12,500.
2. The fee shall be deposited in the City's Parking Improvement Fund. All parking mitigation fees deposited into this Fund, and all interest earned, are to be used specifically for creating parking opportunities within the Coastal Zone.
3. Fees collected in-lieu of providing required parking for development within the Downtown Enhancement District shall be limited to a threshold limit of 84 parking spaces, based on the calculated cost of constructing a parking space at the time each fee is collected.



Modification No. 20. Minor or grammatical changes:

1. Renumbering of sections. Where modifications include the creation of new or deleted sections, if the proposed numbering is inconsistent with the City's numbering, the City shall renumber the sections to ensure consistency throughout the plan.
2. Where the "California Coastal Commission" is referenced as "Commission", text should be modified to read as "Coastal Commission" to ensure continuity throughout the plan and consistency with the definition section of the LIP.

## **VII. FINDINGS FOR DENIAL OF LUPA**

The Commission hereby finds and declares as follows:

### **A. Amendment Description and Background**

On August 1, 2000 the City of Hermosa Beach submitted an amendment to its certified land use plan LUP and a newly adopted implementation program (LIP) for its local coastal program. In October 2001, the Commission extended the time for it to review the submittal by one year. The Commission certified the City's Land Use Plan on August 19, 1981, with suggested modifications. Subsequent to the certification of the LUP, there have been five amendments that have been submitted by the City and approved by the Commission.

The City of Hermosa Beach is located in the South Bay area of Los Angeles County between Manhattan Beach to the north and Redondo Beach to the south. The Hermosa Beach Coastal Zone includes approximately .75 miles of beachfront, a fishing/pedestrian pier, bike and pedestrian promenade (the Strand), commercial development, and residential development varying in size from single-family to multiple-family development. The Coastal Zone extends approximately half a mile inland. The amended land use plan includes some changes in land use designations, none of them major (Exhibits), and a number of policies to address locally controversial issues such as business and commercial parking and the use of some of the industrial sites remain in the City's coastal zone. . Since the certification of the Land Use plan, Hermosa Beach has revisited its development standards and updated its General Plan, and Zoning, adopting more modern standards, but endeavoring to retain the scale and important public features of the City. The goals have been to maintain public open space along the former railroad right-of-way and on the City's walk streets, to allow development while maintaining the scale of the community, and to encourage the recycling of downtown commercial structures to economically viable uses without creating a parking problem in the area close the beach, where the older structures are located.

## **B. Public Access**

The certified Hermosa Beach LUP identifies public access corridors (the walk streets and the beachfront walk, "the Strand") and includes provisions to protect these resources. The major issue over the years has been parking. In the 1994 LUP amendment 1-94, it was stated that most of the urbanized coastline in Los Angeles is within small cities. In many, like Hermosa Beach, the beach is publicly owned and access is limited by the transportation system, which for people in the Los Angeles basin means the automobile. Many of these small cities, including Hermosa Beach, were subdivided in the time of the street railways and have inadequate provisions for cars. The inadequate provisions for cars include narrow streets and very little off-street parking. Additionally, historic downtown subdivision and development practices have restricted adequate provisions of off-street private parking spaces. This has resulted in a shortage of parking due to competing peak hour and seasonal parking demands of beach goers, customers of commercial establishments and the surrounding residential uses which range from low to high density.

The LUP established a requirement of two parking spaces per residential unit. The City now proposes to eliminate that provision and to rely on the "zoning code." The zoning and building codes provide (see exhibit) two spaces plus one guest space for each single family and duplex unit and two spaces plus one guest spacer for every two multiple housing units. The City's initial submittal also referred to the Building Code. However, the Building Code is essentially duplicative and contains other information that is not germane to the issuance of coastal development permits. Moreover the Uniform Building Code is routinely updated by the state. This could result in unnecessary amendments to the Local Coastal Program, because the LUP and LIP would then refer to an outdated Building Code. For this reason, the LUP and LIP should not adopt the Building Code by reference and the LUP as submitted must be denied. However, referring only to "the Zoning Code " is far too general. It does not specify which version of the Zoning Code was provided to the Commission and may result in confusion concerning which standard the Commission has certified.

The use of the current Zoning Code represents an increase in the parking ratios of the currently certified LUP, and will adequately protect coastal access parking by assuring that each development can provide enough parking to satisfy its demand. Reliance on the Zoning Code means, however that any amendment to the Zoning Code will have to be certified by the Coastal Commission as an LUP and LIP amendment before it will apply within the Coastal Zone.

A more difficult problem has been the provision of parking when older commercial structures that were built to be served by streetcars attempt to recycle as restaurant or other high intensity uses. This tendency has been exacerbated by the failure in the 1960's of many neighborhood retail businesses as shopping centers supplanted them and recycling the space to entertainment uses. When the LUP was initially certified, the City had two existing public parking lots that that had been paid for by assessments on commercially zoned property. The Commission certified a policy-allowing City to approve up to development requiring up to 100 spaces without the immediate provision of additional parking. However the policy included an in lieu fee, and re use of the

properties still languished. No developer took advantage of this and little recycling of these buildings occurred.

In an effort to mitigate these parking conflicts and to address the City's unique parking needs, in 1994 the Commission approved an LUP amendment (1-94) that allowed new development on lots less than 10,000 square feet and developed to less than 1:1 floor area to building area, to use existing on-street parking and commercial parking lots in lieu of providing on-site parking. It also allowed new development in the downtown area to provide parking at 65% of the parking standard. For development that was required to provide parking, developers could provide a fee in lieu of the parking. This in-lieu fee was limited to no more than 100 spaces.

The amendment was predicated on the existence of downtown commercial lots that had been built with the assistance of owners of the non-conforming structures, and the documentation that on many days, there existed a surplus of spaces in the downtown area. The background information also noted the high occurrence of shared parking and of use of alternative modes of transportation to the downtown, such as walking and using bicycles. The information submitted by the City at that time indicated that the downtown area contained 350,776 square feet of commercial development, and theoretically, could be expanded to accommodate a total of approximately 994,884 square feet. Based on the maximum potential build-out and the City's 65% parking reduction, there would be a parking deficiency of 434 parking spaces.

The exceptions to the parking requirements within the Downtown Commercial District granted in the amended LUP was permitted only as limited by a build-out cap. New development was limited to a total of 96,250 sq. ft. of new development. The cap was established by a City parking analysis that indicated that there was an existing surplus of 250 parking spaces which could accommodate approximately 96,250 square feet of new commercial development, based on the 65% parking reduction. Although roughly related to the surplus public parking spaces, the cap was designed so that the program would be self-limiting in case any of the assumptions on which the program was designed were incorrect. By imposing a cap, the Commission limited the effects of any mistake by limiting the amount of development that could occur. The cap would be triggered when 96,250 square feet of new development was reached, even if all of the "surplus" spaces were not committed.

Since the approval of the 1994 amendment, the City and the Commission have approved over 96,250 square feet of business improvements and expansions, including a 96-unit limited-term occupancy condominium hotel (Coastal Development Permit #5-96-282.) All of this development received one or another parking "break" in calculating the amount of required parking authorized in the amendment. "Breaks" included a lower parking generation ratio (65%) and exceptions for smaller structures. Under the provisions of the 1994 amended LUP, all new projects were subject to the City's standard parking requirements. Now that the cap has been reached, the Commission must certify a new LUP amendment based on a new parking study before approving any additional development based on the program.

In the current LUP amendment, the City is proposing to eliminate the development cap for the Downtown District and to continue the parking demand ratio reduction along with parking exceptions for smaller structures. In replace of the cap the City is proposing to minimize parking impacts through alternative measures such as an in-lieu fee program, parking plans, creation of remote parking lots, reduced parking requirements, or shared parking programs.

Although the City has since reached the development cap, in 1998-99 the City constructed a new parking structure with 380 additional public parking spaces [CDP No. 5-97-11(City of Hermosa Beach). However, due to additional project development, and replacement of displaced parking, the actual number of surplus spaces available is 84 spaces [CDP No. 5-96-2112-A1 (City of Hermosa Beach)]. Based on the City's 65% parking break for the downtown area the 84 spaces would provide 32,340 square feet of new commercial development.

According to City estimates, and a 1996 circulation and parking study prepared for the City, the downtown business area contains approximately 361,993 square feet of commercial development and has the potential to develop to a total of approximately 691,460 square feet, based on current zoning. The additional square footage, if the area were to be developed to it's maximum build-out potential, would generate a parking demand of 855 additional cars, based on the City's 65% parking break. This amount of potential build-out would create a parking deficit of approximately over 400 parking spaces.

This deficit would have a significant impact on public access. The City's submittal does not adequately address the cumulative impacts on beach parking if an additional 329,467 square feet of development were permitted with reduced parking. Furthermore, without a limit to the amount of development that can occur in the downtown area, and a mechanism to monitor development impacts to public access, the submittal does not ensure that public access will be protected.

Therefore, the Commission finds that the proposed LUP amendment policies, as submitted, must be denied. The Commission further finds that the proposed LUP amendment is not consistent with Sections 30211 and 30252 of the Coastal Act which require that new develop enhance and not interfere with public access to the coast, and must be denied.

If the LUP policies are modified consistent with the suggested modifications stated in Section V of this report, (page) to assure that sufficient parking exists within the Downtown Enhancement District to accommodate new development and beach parking and to adequately monitor downtown development and parking, the modified LUP policies will be consistent with the access provisions of the Coastal Act. As modified, the LUP amendment will permit reduced parking requirement up to a limit of 146,300 square feet of new commercial development.

### **C. Public Recreation**

Section 30212.5 of the Coastal Act requires that public recreation opportunities be distributed throughout coastal areas to prevent overuse of any single area. Section 30213 requires that lower cost recreational facilities be encouraged. The certified LUP includes policies that are intended to protect and enhance the recreational areas and facilities. These include policies to identify the walk streets as access corridors, and policies to protect the beach as a public recreational resource. The proposed LUP amendment, however, does not address temporary events and their potential impact to recreational areas and facilities.

In recent years it has become apparent to the commission that cumulatively private and public temporary events on the beach and other areas could reduce the availability of those areas to the general public for activities protected by the coastal act. The Legislature has recently directed the commission adopt guidelines indicating which temporary events on the beach or elsewhere should be excluded from permit requirements and which events, because of their impact of public use of beach and other resources should be reviewed for a coastal development permit.

Policy 30610 of the coastal act now includes the following language that indicates that while many temporary events should not require permits, some events could have a significant adverse impact on coastal resources, including on the available of public recreation resources for the general public. Section 30610(i) states:

*(1) Any proposed development which the executive director finds to be a temporary event which does not have any significant adverse impact upon coastal resources within the meaning of guidelines adopted pursuant to this subdivision by the commission. The commission shall, after public hearing, adopt guidelines to implement this subdivision to assist local governments and persons planning temporary events in complying with this division by specifying the standards which the executive director shall use in determining whether a temporary event is excluded from permit requirements pursuant to this subdivision. The guidelines adopted pursuant to this subdivision shall be exempt from the review of the Office of Administrative Law and from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.*

*(2) Exclusion or waiver from the coastal development permit requirements of this division pursuant to this subdivision does not diminish, waive, or otherwise prevent the commission from asserting and exercising its coastal development permit jurisdiction over any temporary event at any time if the commission determines that the exercise of its jurisdiction is necessary to implement the coastal resource protection policies of Chapter 3 (commencing with Section 30200).*

Sections 30220 and 30221 of the Coastal Act require that coastal areas be protected for recreational uses. The proliferation of special temporary events in some coastal areas has been determined to negatively impact public access and recreation. In the South Bay, where public parking is limited and the beach is relatively narrow, a temporary event can dominate beach parking and block beach views for the days on which it occurs. The proposed LUP does not include a policy to address the issues

raised by temporary events. Therefore, the proposed LUP does not meet the requirements of, and is not in conformity with, the Chapter 3 policies of the Coastal Act.

**D. Low and Moderate Income Housing Requirements**

The LUP amendment proposes to remove all housing policies from the certified LUP. In 1982, when the LUP was certified the Coastal Act contained sections that required the protection of housing opportunities for persons and families of low or moderate income. These provisions of the Act that pertained to low and moderate income housing have been removed from the Act. Therefore, the protection of low and moderate-income housing is no longer a mandate of the Commission. Furthermore, Section 30500.1 of the Coastal Act states:

**Section 30500.1.**

*No local coastal program shall be required to include housing policies and programs.*

However, State law requires that density incentives be granted to make the construction of low and moderate-income housing feasible. Section 65915 of the State Government Code requires all local jurisdictions in California to offer a density bonus for affordable housing. The law requires a density bonus of 25% above the maximum density otherwise permitted by the underlying zone and one other incentive or concession.

The LUP does not allow the density standards in the LCP to be exceeded when required under the housing code. The amendment fails to recognize that the designated densities must be exceeded to allow for affordable housing in accordance with the Government Code section cited above. The absence of any language setting out a method for reconciling differences between the City's certified Local Coastal Program and the Government Code will result in a conflict between the certified land use plan and implementation ordinances and any density bonuses. The City contends that its average lot size in the Coastal Zone is so low and the ownership patterns involve so many different owners that it is unlikely that an applicant would request a density incentive. The City proposed Land Use plan and LIP allow two or at most three units per lot. This is below the threshold where Government Code 65915 would apply. Providing the density bonus required under the Government Code may potentially have an impact on coastal resources. While the Commission cannot deny the LUPA because it fails to address how the density bonus requirements will be implemented in the coastal zone, failure to resolve the conflict could result in future delays and disagreements, should the City found itself needing to apply the law.

**E. Water Quality**

When considering an update to an LUP applying to most of the land in a City, the Commission must also consider the water quality standards of the LUP as they affect recreation and habitat.

Coastal Act Sections 30231 and 30240 require:

**Section 30231.**

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

**Section 30240.**

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The currently adopted LUP includes no water quality standards. The City has recently adopted an ordinance that reflects Los Angeles County's current water quality improvement standards but has not incorporated these standards into its LUP. The standards are limited to major polluters such as large construction projects, industrial sites and service stations but do not address sources of run-off that can cumulatively affect beaches and waterways.

The City has indicated that it supports the enforcement of strong measures to protect water quality, but the Coastal Zone is a small proportion of its area. It is, in the view of the City staff, an inefficient use of its time to enforce two separate standards, when the Water Board will within a very short time strengthen the standards that apply to the whole City.

While most lots in the City are developed, the LUP will allow recycling to a higher intensity than now exists. With lower height limits, developers may seek to increase lot coverage, which can increase run-off. Development on the pier and on the first row of lots may discharge directly onto the beach or into the ocean, but the ordinance does not yet identify which lots discharge into sensitive resource and habitat areas. The Regional Water Quality Control Board requires additional measures to filter and control discharges that directly impact sensitive environmental areas. There is no guarantee that the Regional Water Quality Control Board will increase standards in the region adequately to protect the sensitive resources that are found in offshore areas from the impacts of adjacent development. An LUP that contains policies for the entire coastal zone of the City but does not include water quality standards is not consistent with the Coastal Act. Without water quality standards development permitted under this LUP will have individual and cumulative impacts on water quality of the Bay, impacting

recreational use and wildlife. For these reasons the LUPA is not adequate and is not consistent with the policies of the Coastal Act protecting habitat and recreation and must be rejected.

## **VIII. FINDINGS FOR CERTIFICATION OF THE LUPA IF MODIFIED**

### **A. Public Access**

Section 30252 of the Coastal Act requires that public access to the coast be enhanced by providing adequate public parking facilities.

Section 30252 of the Coastal Act:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of on-site recreational facilities to serve the new development.*

As noted in the findings for denial as submitted, the LUP amendment would eliminate the downtown development cap and continue the parking demand ratio reduction along with parking exceptions for smaller structures. Without such limits, new development and intensification of existing development could significantly impact the public's ability to park in the downtown area and impact public beach access. However, as modified to continue a development cap for the downtown area, development will be limited to ensure that the existing parking supply will be adequate to support future development.

Consistent with LUP amendment 1-94, the proposed modification adjusts the development cap based on the amount of surplus parking available within the downtown area. Based on the most recent information available to Commission staff, the number of spaces available for public parking within the downtown area is 84 spaces. This number of spaces, based on the City's downtown parking break of 65%, would provide 32,340 square feet of new commercial development. Therefore, since the previous allowable cap of 96,250 square feet has been reached, the suggested modification would establish a new cap which would limit new development and intensification of existing development to 32,340 square feet, and continue the requirements that the City ensure, through interim parking studies, that adequate parking continues to be available.

Furthermore, to ensure that the parking studies are current and it is necessary to retain the policy of setting a cap on the amount of development that can occur between interim parking studies. The original policy set the parking study cap at 24,063 square feet, or 25% of the total



allowable square footage. Therefore, the suggested modification continues to use 25% as the benchmark, which would require a new study for every 8,085 square feet of commercial development.

As in LUP amendment 1-94, once the cap has been reached or that it has been determined, through the interim parking studies, that parking demand has reached the available supply, the City will require development to provide the required parking.

As a continued parking option for some lots, the ability to provide a fee in lieu of any required parking will continue to be available. The fee was originally established at approximately \$8,000 per space. This fee was based on the construction cost of a parking space in the downtown area. However, in 1999, due to increases in land and construction cost, the City increased the fee to \$12,500 per space, based on new City analysis and land appraisal. Although the fee is high, the proposed amendment will continue this program as a parking mitigation option. This option was limited to a threshold limit of 100 parking spaces. As a suggested modification, the threshold limit has been reduced from 100 to 84, based on the number of surplus spaces available. Furthermore, this policy does not currently take into account the possibility that surplus parking can be taken-up by development that is not required to provide parking. Such development could generate a demand that would reduce the number of surplus spaces. Therefore, the policy is further modified to limit the number of in-lieu spaces to a maximum of 84 spaces or the amount of available parking spaces based on an interim parking study. Once the limit has been reached the City's amendment will require the City to not accept any fees in-lieu of parking beyond the threshold limit, or to construct new parking upon reaching the limit.

Since 1982, when the City first started accepting fees in lieu of providing parking spaces, the City has accepted fees for approximately five spaces. Given the limited demand for paying the fee, the probability of the City accepting in-lieu fees totaling 84 parking spaces is low. Nevertheless, the limit should be based on the number of spaces available and should continue to be an option for development.

As modified, the proposed amendment will ensure that parking demand from new development will not exceed the existing parking supply and will be consistent with the access policies of the Coastal Act.

## **B. Housing for Low and Moderate Income Persons**

As noted above, State law requires that density incentives be granted to make the construction of low and moderate-income housing feasible. Section 65915 of the State Government Code requires all local jurisdictions in California to offer a density bonus for affordable housing. The law requires a density bonus of 25% above the maximum density otherwise permitted by the underlying zone and one other incentive or concession. In this LUP, the City identifies one area in which the underlying zoning is high enough to trigger this requirement

Government Code §65915 requires local governments to provide residential density increases to developers who agree to develop low-income and senior housing. The

statute requires that local governments grant a density bonus of “at least 25 percent” to developers who agree to make a specified percentage of new units affordable to low income or senior households. Government Code §65915(b) also requires local governments to grant at least one other incentive, in addition to the density bonus, unless the local government finds that the additional incentive is not necessary to allow for affordable housing.

The City’s proposed LUP does not indicate how density increases will be applied consistent with policies of Chapter 3 of the Coastal Act. As a result, the proposed LUP does not ensure that the application of density increases and incentives will occur in a manner that conforms to the policies of Chapter 3 of the Coastal Act. Without such a policy that harmonizes the requirements of both Government Code §65915 and the Coastal Act, including §30250 of the Coastal Act the City will need to process an amendment to its LCP as part of approving a project requiring such an incentive.

The Commission has discussed possible modifications to the LUP that would enable the City to balance these two mandates and conform with the LUP and to both the Coastal Act and the government code housing provisions. These suggested modifications harmonize the requirements of the density bonus statute with the Coastal Act. The legal basis supporting these suggested modifications is set forth in the memorandum to Coastal Commissioners from Ralph Faust, Chief Counsel, Dorothy Dickey and Amy Roach, dated October 10, 1995, which is hereby incorporated by reference. However, the City has indicated that it does not wish to accept any modifications that would establish a method for harmonizing these two different state mandates.

Accordingly, the LCP will conform to the Coastal Act, but if incentives are granted an LCP amendment would have to be processed to assure that the development conforms both to that section of the Government Code and to the Coastal Act. The City asserts that because almost all of the residential lots in the Coastal Zone are less than 4000 square feet, and many are less than 3500 square feet, the candidates for the incentives granted by that section of the Government Code would be few. Moreover the City representatives note that most of its lots are in separate ownership and developed with relative new single-family homes and duplexes. The latest study in fact showed (a mid-eighties bootleg study carried out by commission interns) that actual number of units on the City’s residential lots has in fact dropped since the mid seventies the boom of the construction of new buildings. The City representatives indicate that the lack of a harmonizing provision will not raise a practical problem and that they would rather deal with any exception by means of an LUP amendment. As proposed, the LUP will conform to the policies of Chapter 3 of the Coastal Act.

### **C. Water Quality**

Run-off from storm drains, discharge of chemicals, sewage outfalls and siltation from construction has resulted in severe impacts to the biological quality of offshore waters, reduction in the extent of kelp forests, and has raised concerns about the safety of locally caught fish for human consumption. The City of Hermosa Beach has adopted stormwater and urban runoff pollution ordinances that control runoff caused by

development and activities, but the ordinances do not address runoff due to construction activities. Although the City is built-out, recycling and redevelopment activities can be a significant source of pollution.

The City has indicated that it supports the enforcement of strong measures to protect water quality, but the coastal zone is a small proportion of its area. It is, in the view of the City staff, an inefficient use of its time to enforce two separate standards, when the water board will within a very short time strengthen the standards that apply to the whole City.

Beachfront and waterfront development discharges directly into the ocean, which is a sensitive habitat. The Regional Water Quality Control Board requires additional measures to filter and control discharges that directly impact sensitive environmental areas. There is no guarantee that the Regional Water Quality Control Board will increase standards in the region adequately to protect the sensitive resources that are found in offshore areas from the impacts of adjacent development. As modified, the LUP policies require that construction activities are adequately mitigated and that Best Management Practices (BMP's) are implemented to reduce off-site storm water runoff to the maximum extent afforded by the State Water Resources Board. As modified, the policy will do as much as possible within the confines of the City to reduce storm drain discharge into the ocean. As modified, the policy is consistent with the habitat and recreation sections of the Coastal Act and with State law that requires cooperative efforts between the State Department of Water Resources and the Commission.

#### **D. California Environmental Quality Act**

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. However, the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required in an LCP submittal to find that the LCP does conform to the provisions of CEQA. The City of Hermosa Beach LCP amendment 1-2001 consists of a Land Use Plan (LUP) amendment.

As outlined in this staff report, the proposed LUP amendment as modified, designates preserves existing public open space, reduces heights over most of the City and controls development to existing levels. As modified, the LUPA minimizes risk to life and property from geologic hazards and flooding, provides housing for low and moderate income persons to the extent required by the Government Code, preserves historic structures and controls development to the level of intensity that can be accommodated by the existing transportation system. Therefore the Commission finds that the proposed amendment is in conformity with the policies of Chapter 3 of the Coastal Act. The approval of the LUP amendment as modified will not result in significant adverse

environmental impacts under the meaning of CEQA and certifies LUP Amendment 1-2001 as modified.

**IX. FINDINGS FOR DENIAL OF IMPLEMENTATION PLAN AS SUBMITTED**

The Commission hereby finds and declares as follows:

Section 30513 of the Coastal Act states:

*The Commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Land Use Plan as acted upon by the Commission contains policies and land use designations. The Implementation must be evaluated for its conformance with and adequacy to carry out these policies and land use designations.*

As indicated below, the proposed Plan raises issue with respect to its conformity with and adequacy to carry out the public access, public recreation, and water quality policies of the certified Land Use Plan.

**A. Public Access**

As indicated above in the Commission's findings on the LUP, the proposed downtown parking standards could result in individual and cumulative impacts on the availability of public access parking. According the Commission has eliminated "exceptions" to the City's LUP parking Standards and has required that all development adequate parking. Moreover, as proposed the implementation ordinance does not adequately protect the mitigation parking required in the Commission's 1982 permit granting a preferential parking program to the city. The Commission has required the LUP to be modified to conform to that permit. However, the Commission finds that the proposed LIP, which is the zoning ordinance and the public park plan do not conform with and modified LUP in a way that is consistent with those LUP preferential parking policies (they reserve over 400 free public spaces while allowing residential area to limit parking) and are not adequate to carry it out. Unless the City modifies its standards relating to the management of public streets, which it has not submitted to the Commission, and the creation of preferential parking programs in such a way to protect public parking lots and reserved spaces, the LIP is not consistent with and is not adequate to carry out the policies of the modified LUP.

The Commission has found that only as modified will the LUP adequate protect public access. The proposed implementation ordinance grants exceptions to commercial parking standards. It does not contain protections for public parking as noted in the modified LUP. As such they are inconsistent with and inadequate to carry out the parking provisions to the LUP as modified by the Commission in this action.

**B. Public recreation**

The LUP as modified protects public access and recreation from the cumulative and individual impacts of temporary events. The submitted implementation ordinances do not distinguish between small, local events that have no impact and larger events that might occupy significant portions of the beach and public parking for significant long periods, and effectively exclude the general public and privatize the beach. The LUP has been modified to make the distinction. The current park and recreation ordinances are unclear as to (1) are they part of the LUP and (2) what methods they have to protect general public use of beach facilities. As modified the LUP does protect the public from the impact of large temporary events. The related LIP ordinances either not exist or do not address these issues. Therefore, the LIP as submitted is not consistent with and inadequate to carry out the LUP as modified.

**C. Water Quality.**

As indicated above, only by applying methods to protect water quality can the health of offshore biologic resources and the suitability of the water for recreation be preserved. The City indicates that it will adopt water quality standards when ordered by the Regional Water Quality Control Board. Indeed, it has indicated that it supports tough water quality standards but does not wish to adopt different standards for a very small part of its jurisdiction. Instead it believes that it is more administratively sensible and effective to adoption standard City wide. However as noted in the LUP findings above that small area is directly adjacent to the coastline. The City has proposed that the Commission approve the City's existing water quality standards as both the LUP and LIP. However, these standards lack details that the Commission has suggested strengthening the LUP water quality standards. Indicated above only by applying methods to protect water quality can the health of offshore biologic resources and the suitability of the water for recreation be preserved. As modified the LUP will include detailed water quality standards that will protect offshore water from siltation and pollution from the cumulative effects of nearshore development and uses, consistent with the policies of the coastal act that protect both recreation and offshore biologic resources. The current Citywide standards are not consistent with and are inadequate to carry out the LUP water quality standards as modified by the Commissions' s action on the LUP. The LIP standards do not protect water quality as envisioned in the modified LUP. Therefore the LIP as submitted must be rejected.

**D. Coastal Development Permit issuing Ordinance**

The California Coastal Act provides for the transfer of much of the Commission's authority to local jurisdictions upon effective certification of a Local Coastal Program for their geographic area. The Coastal Act and accompanying implementing Regulations therefore require that the implementation Plan portion of the LCP include procedures for carrying out this transferred authority. Five basic elements must be addressed to adequately fulfill this procedural requirement. These elements are as follows:

- Permit Requirements
- Hearing and Notice Procedures
- Appeal Procedures

- Open Space and Access Implementation and Document Review
- LCP Amendment Procedures

The permit processing portion of the City's Implementation Program is contained within Chapter 17.37 (entitled Coastal Development Overlay Zone. The Coastal Development Permit (CDP) portion of the Implementation Plan proposed by Hermosa Beach, omit or contradict certain procedural requirements of the Coastal Act and its implementing regulations. Consequently, the procedural portions of Implementation Plan as proposed are inadequate to transfer Coastal Act authority from the Commission to the City of Hermosa Beach and must be rejected. Therefore, staff is recommending that certain proposed sections of Hermosa Beach's Permit Processing Procedures be rejected and approved only if modified as set forth herein.

**a. Development Must Be Defined consistently with the Coastal Act**

Development is defined in Section 30106 of the Coastal Act. In order to assume the permit authority of the Commission, local governments must grant themselves the same jurisdiction over projects that the Commission has. A common definition of what constitutes development is, therefore, essential to a full transfer of authority. The Hermosa CDP Ordinance includes a definition of development consistent with the Coastal Act in proposed Section 17.37.020 of the zoning ordinance. However, the proposed CDP ordinance requires a coastal development permit only for development which is not otherwise exempted in Section 25.07.008 or categorically excluded in Section 25.07. 010. Further, as indicated above, proposed revisions to Sections 11.02.010, 14.02.010(B), 21.08.020 and 22.04.020 of the City Municipal Code state that a coastal development permit will only be required if a development project is not otherwise exempted by the City's noncoastal Municipal Code provisions. Although the Coastal Act does exempt and categorically exclude certain types of development, the types of development which can be exempted or categorically excluded are very specifically defined.

First, section 30610 of the Coastal Act and California Code of Regulations Sections 13250 through 13253 exempt a limited amount of what would generally be considered development from the coastal permit requirement. The Coastal Act and applicable regulations must be read together to determine exactly what type of development is exempt. As proposed, however, the section of the CDP ordinance defining coastal permit exemptions is inconsistent with Coastal Act requirements because it includes more types of development than exempted under the Coastal Act. (Proposed Section 25.07.008). Both sections 25.07.004 and 25.07.008 of the proposed zoning ordinance should be rejected and modified to include all development, subject only to the specified exemptions provided by the Coastal Act and its regulations. It is thus necessary to modify Proposed Section 25.07.008(B)(4) as well as add a subsection to Section 25.07.008(B) so that the listed coastal permit exemptions to the coastal development permit requirements are consistent with the Coastal Act. If modified for consistency with Coastal Act Section 30610 and California Code of Regulations Sections 13250, 13252 and 13253, proposed Section 25.07.008 of the CDP ordinance will be adequate to implement the transfer of Coastal Act authority to the City. (See Suggested Modifications and new Subsection to Proposed Section 25.07.008 defining exemptions in Appendix A.)

Second, the Coastal Act provides for the discretionary exclusion of certain types of development by Commission action (Coastal Act Section 30610.5 and 30610(e) and Implementing

Regulations 13240 et seq.). Categorical Exclusions approved by the Commission for local government which do not have certified LCP's expire upon LCP Certification (California Code of Regulations 13249(b)). A new "post cert" Categorical Exclusion may be applied for, but because the voting requirements are different, must be processed separately from the LCP. A two-thirds vote of the Commission (California Code of Regulations 13243) is required to approve a Categorical Exclusion, whereas a simple majority is needed for LCP approval. Submittal and action requirements are also different.

It is clear from the City's proposed revisions to Sections 11.02.010, 14.02.010(B), 21.08.020 and 22.04.020 of the City Municipal Code that certain categorical exclusions are anticipated. In those sections, the City subjects certain development projects which require a specific type of city permit to the coastal development permit requirements only if those developments are not otherwise exempted within the City's Municipal Code. As proposed in these sections, any provisions exempting development because of the City's other Code provisions amount to categorical exclusions inconsistent with Coastal Act requirements and should be rejected. In order to avoid confusion and to maintain consistency with the requirements of the Coastal Act, the proposed sections of the Municipal Code should be modified to delete premature references to categorical exclusions in proposed Sections 11.02.010, 14.02.010(B), and 21.08.020. If the references exemptions that are not authorized in the coastal act and its associated regulations or that might be subsequently authorized in subsequent Commission regulations are deleted, proposed Sections 11.02.010, 14.02.010(B), 21.08.020 and 22.04.020 of the City's Municipal Code will be consistent. In the mean time, potentially excludible development remains subject to the coastal permit requirement. (See Suggested Modifications to Proposed Sections 11.02.010, 14.02.010(B), 21.08.020, 22.04.020 of the City's Municipal Code in Appendix B.)

## **X. FINDINGS FOR APPROVAL OF IMPLEMENTATION PLAN IF MODIFIED**

### **A. Public Shoreline Access**

As modified, the proposed LIP will be consistent with and adequate to carry out the modified Land Use Plan with respect to shoreline access. As modified, the LIP will protect public parking resources from individual and cumulative impacts as required in the suggested modifications to the LUP.

### **B. Public Recreation**

As modified the proposed LIP will be consistent with and adequate to carry out the modified Land Use Plan with respect to recreational access to public and beach facilities. The modified LIP will protect public beach resources from individual and cumulative impacts from encroachments and from impacts of temporary events on public use of the beach as required in the modified LUP.

**C. Water Quality**

As indicated above, only by applying methods to protect water quality can the health of offshore biologic resources and the suitability of the water for recreation be preserved. However as noted in the LUP findings above that small area is directly adjacent to the coastline.

As modified, policies and laws will consistent with LUP policies, require that new development in the City will do as much as is feasible that can be legally required to protect the health of the public swimming in offshore waters, and to protect the productivity and health of offshore habitat. As modified the LIP policies will be consistent with and adequate to carry out the modified water quality policies of the LUP.

**D. Permit Issuing Procedures and Public Participation.**

As modified the implementation ordinance will be consistent with the coastal act requirements that the implementation ordinances be (1) consistent with the certified Land Use Plan, and (2) and adequate to carry it out. This will take place by assuring that all LUP policies are carried out by consistent implementation ordinances and the provision of proper procedures and notice to the public and appeals on appealable permits. As modified, the LIP procedures will be consistent with and adequate to carry out the certified Land Use Plan, provide proper notice and require that all development that requires a coastal development permit will receive review and that all appealable development will be noticed so that appeals can take place.